

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA**

**Minute Entry**

### ***Hearing Information:***

**Debtor:** MEDONE HEALTHCARE, LLC  
**Case Number:** 2:17-BK-14457-PS **Chapter:** 11  
**Date / Time / Room:** MONDAY, JANUARY 22, 2018 02:30 PM 6TH FLOOR #601  
**Bankruptcy Judge:** PAUL SALA  
**Courtroom Clerk:** LUANN BELLER  
**Reporter / ECR:** MICHELLE RADICKE-STEVENSON

## *Matters:*

- 1) BACKUP EXPEDITED HEARING ON DEBTOR'S EMERGENCY MOTION FOR INTERIM AND FINAL ORDERS**  
(a) AUTHORIZING MAINTENANCE AND USE OF DEBTOR'S EXISTING BANK ACCOUNTS, CASH MANAGEMENT SYSTEM AND BUSINESS FORMS; AND (b) WAIVING INVESTMENT AND DEPOSIT REQUIREMENTS  
**R / M #:** 0 / 0
- 2) DEBTOR'S AMENDED MOTION FOR AN ORDER APPROVING SALE OF DEBTOR'S ASSETS UNDER ASSET PURCHASE AGREEMENT FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES**  
**R / M #:** 36 / 0
- 3) U.S. TRUSTEE'S MOTION TO APPOINT CONSUMER PRIVACY OMBUDSMAN**  
**R / M #:** 49 / 0
- 4) U.S. TRUSTEE MOTION TO CONVERT OR DISMISS (DISMISSAL ONLY REQUESTED)**  
**R / M #:** 27 / 0

Appearances:

JOSEPH E. COTTERMAN, ATTORNEY FOR MEDONE HEALTHCARE, LLC  
BRADLEY JAY STEVENS, ATTORNEY FOR MEDONE HEALTHCARE, LLC  
PATRICK A CLISHAM, ATTORNEY FOR ARIZONA BANK & TRUST  
SCOTT B. COHEN, ATTORNEY FOR ARIZONA BANK & TRUST  
CHRISTOPHER J PATTOCK, ATTORNEY FOR U.S. TRUSTEE  
WARREN J. STAPLETON, ATTORNEY FOR PPS HME HOLDINGS, LLC  
PHILIP WOOTEN, ATTORNEY FOR ARIZONA DEPT. OF ECONOMIC SECURITY  
BRYAN ALBUE, ATTORNEY FOR INVACARE  
JUSTIN HENDERSON, ATTORNEY FOR GOOD NIGHT MEDICAL  
ALISSA CASTANEDA/MOLLY KJARTANSON, ATTORNEYS FOR WELLS FARGO  
LORI LEWIS, ATTORNEY FOR MARICOPA COUNTY TREASURER

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**Proceedings:**

**ITEM #3**

Mr. Cotterman informed the Court that in this case an ombudsman is not needed. He stated that their privacy guidelines will not change.

Mr. Pattock responded.

Mr. Stapleton confirmed that PPS will continue to comply with the privacy issue.

THE COURT PLACED ITS DECISION ON THE RECORD. THE DECISION ON THE RECORD CONSTITUTES FINDINGS OF FACT AND CONCLUSIONS OF LAW PURSUANT TO FED. R. CIV.P. 52 AS ADOPTED BY RULE 7052 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURES. THE DECISION CAN BE HEARD BY ACCESSING THE AUDIO FILE FROM THE CASE DOCKET. ANYONE WISHING A TRANSCRIPT OF THE DECISION MAY OBTAIN ONE BY CONTACTING THE ELECTRONIC COURT RECORDER.

COURT: IT IS ORDERED DENYING THE U.S. TRUSTEE'S MOTION TO APPOINT A CONSUMER PRIVACY OMBUDSMAN.

**ITEM #2**

Mr. Cotterman reviewed the sale for the record, noting that the was a competing bid. He discussed the terms of the sale. He answered questions raised by the Court. He responded to points raised in the objections. Mr. Cotterman stated that the sale is the best answer for this case.

Mr. Stapleton stated that he is willing to stay at \$1million and leave the avoidance actions. He discussed the competing bid.

Mr. Henderson explained his position, stating that he feels his bid is a higher and better offer. He added that he believed a deposit had been wired but evidentially not.

Mr. Albue stated that he believes some of his lien is in front of ABT.

Mr. Cohen explained his view, stating that possibly he approved the sale prematurely. He stated that he believes the issue we are discussing now is moot. Mr. Cohen stated that the sale has his support but the allocation does not.

Ms. Castaneda discussed it's limited objection, and asked that Wells Fargo be paid from the closing.

Ms. Lewis stated that she believes before anyone is paid that the taxes be paid.

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Mr. Wooten stated that DES is coat-tailing the U.S. Trustee's motion to dismiss.

Mr. Pattock argued his position, stating that if there are no funds to distribute to creditors the best option would be to dismiss the case.

Mr. Cotterman replied.

The Court recessed to allow the parties time to confer.

Mr. Cotterman explained what he believes to be the value of the inventory and equipment.

Mr. Stapleton stated that his client is willing to put up another \$25,000 to allow the debtor assistance.

Mr. Albue confirmed that it is acceptable provided the- liens and interests in the cash proceeds are as they exist today.-----

Mr. Cotterman stated that he doesn't like leaving the avoidance actions with the estate, but understand that the Court will not approve the sale today.

Recess.

Mr. Cotterman answered questions raised by the Court.

Mr. Stapleton reviewed the terms of his offer, stating that the offer includes a bid of \$1million for the assets listed and his client has agreed to pay \$75,000 in administrative claims.

Mr. Henderson reviewed the terms of his offer.

Mr. Cotterman stated that he believes Mr. Stapleton's offer is the best offer and asked that Mr. Henderson's offer be a backup bid.

Recess

The Court began to put it's decision on the record.

Mr. Cotterman answered questions raised by the Court.

COURT: THE COURT INFORMED THE PARTIES THAT IT CANNOT APPROVE THE SALE TODAY. THE COURT INFORMED COUNSEL THAT IT NEEDS MORE INFORMATION IN THE

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FORM OF A DOCUMENT AND TESTIMONY. IT IS ORDERED CONTINUING THIS HEARING AND THE REMAINING MATTERS ON TODAY'S CALENDAR TO JANUARY 31, 2018 AT 10:00 A.M.